

Serial No.: 09/745,006

Docket No.: KCC-14,083

**REMARKS**

Applicant respectfully requests reconsideration of this Patent Application, particularly in view of the above Amendment and the following remarks. No additional fee is required for this Amendment as the number of independent claims has not changed, and the total number of claims has not changed.

**Amendment to the Claims**

Applicant has amended the preamble of Claims 2, 4-7, 10-14, 16, and 17 in response to the Examiner's objections and suggestions.

Applicant has amended Claims 3, 9, and 18 to further clarify the claimed invention. Support for this Amendment is found in Figs. 2 and 3, and in Applicant's Specification at page 4, line 14 through page 5, line 5, and at page 11, lines 12-21.

No new matter has been added to the claims by this Amendment.

**Claim Objections**

The Examiner has objected to Claims 2-7, 9-14, and 16-18 for the reasons set forth at page 2 of the Office Action. Applicant has amended Claims 2-7, 9-14, and 16-18 as discussed above, incorporating suggestions made by the Examiner.

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Applicant respectfully asserts the above Amendment overcomes the objections to Claims 2-7, 9-14, and 16-18.

**Claim Rejections - 35 U.S.C. §112**

Claim 9-14 have been rejected under 35 U.S.C. §112, second paragraph, for lack of antecedent basis for the limitation "the discrete pleats" in Claim 9. Applicant has amended Claim 9 to provide proper antecedent basis for the limitation "the discrete pleats." Applicant respectfully asserts that the above Amendment overcomes the rejection of Claims 9-14 under 35 U.S.C. §112, second paragraph.

**Claim Rejections - 35 U.S.C. §102**

Claims 2-7, 9-14, and 18 have been rejected under 35 U.S.C. §102(e) as being anticipated by Reynolds et al., U.S. Patent Application Publication 2003/0050616.

Amended independent Claims 3, 9, and 18 require the flap sheet to be attached to the body-side liner by point bonds at opposed peripheral edges of the flap sheet. As disclosed at page 11, last paragraph, of Applicant's Specification, the point bonds of the pleated flap sheet to the body-side liner allows the pocket to open widely even when the pocket has a relatively narrow traverse dimension.

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Reynolds et al. discloses a gasket assembly having base portions 88 and 90 operatively joined to the stretchable rear waist band 60 such that the base portions lie adjacent and parallel to the band 60 in both the relaxed condition and the tensioned condition (Paragraph 0042). Reynolds et al. does not disclose or suggest peripheral edges of a pleated flap sheet point bonded to a body-side liner, as in Applicant's claimed invention.

Therefore, Reynolds et al. does not disclose or suggest each and every limitation of Applicant's claimed invention, and does not anticipate Claims 2-7, 9-14, and 18.

#### **Claim Rejections - 35 U.S.C. §102**

Claims 2-3, 6-7, 9-10, 13-14, and 18 have been rejected under 35 U.S.C. §102(b) as being anticipated by Schaar, U.S. Patent 3,951,150.

Schaar discloses longitudinal folds defining a "box-pleat configuration" for a diaper (Column 3, lines 61-64). The box-pleat diaper includes a central panel C, a pair of first panels B and D extending from and overlying the central panel C, and a pair of outermost panels A and E extending from and overlying the first panels B and D (Column 3, line 64 - Column 4, line 1). The central panel C is adhered to the underlying portion of the diaper (See figures and Column 5, lines 9-24).

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Applicant's amended independent Claims 3, 9, and 18 require a pocket defined by the pleats and between the flap sheet and the body-side liner. The Examiner alleges Schaar discloses a pocket defined by the pleats A,B and D,E and the central panel C. However, as the central panel C is attached to the underlying diaper, the pocket is between the central panel C and the diaper wearer, and not between the central panel and a body-side liner, as in Applicant's claimed invention.

As Schaar does not disclose or suggest a pocket defined by pleats and between a flap sheet and a body-side liner, Schaar does not disclose each and every limitation of Applicant's claimed invention. Thus, Schaar does not anticipate Applicant's Claims 2-3, 6-7, 9-10, 13-14, and 18.

#### **Claim Rejections - 35 U.S.C. §103**

Claims 15-17 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Reynolds et al., U.S. Patent Application Publication 2003/0050616, in view of Fries, U.S. Patent 5,540,796, Fries et al., United Kingdom Patent Application Publication GB 2 291 783, and Igaue et al., U.S. Patent 5,114,420.

As noted by the Examiner, Reynolds et al. is prior art under 35 U.S.C. §102(e). According to 35 U.S.C. §103(c), a reference that is prior art under 35 U.S.C. §102(e) is not to be considered when determining obviousness under 35 U.S.C.

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§103(a) when the prior art reference and the claimed invention were commonly owned or subject to an obligation of assignment to the same person at the time the invention was made.

Reynolds et al. and the above referenced U.S. Patent Application have been assigned to Kimberly-Clark Worldwide, Inc. Both the subject matter of Reynolds et al. and the above referenced U.S. Patent Application were, at the time Applicant's invention was made, owned by or subject to an obligation of assignment to the same entity, Kimberly-Clark Worldwide, Inc. Therefore, the rejection of Claims 15-17 under 35 U.S.C. §103(a) over Reynolds et al. in view of Fries, Fries et al., and Igaue et al. should be withdrawn.

#### **Claim Rejections - 35 U.S.C. §103**

Claims 4, 5, 11, and 12 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Schaar, U.S. Patent 3,951,150, in view of Foreman, U.S. Patent 4,738,677.

Claims 4 and 5 depend from Claim 3, and Claims 11 and 12 depend from Claim 9, and are patentable for at least the same reasons as Claims 3 and 9, respectively, discussed above. The combination of Schaar and Foreman does not

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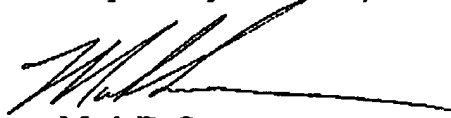
disclose or suggest a pocket defined by pleats and between a flap sheet and a body-side liner, as in Applicant's claimed invention.

### Conclusion

Applicant intends to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicant has not addressed in this response, Applicant's undersigned attorney requests a telephone interview with the Examiner.

Applicant sincerely believes that this Patent Application is now in condition for allowance and, thus, respectfully requests early allowance.

Respectfully submitted,



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